

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO: 18146 of 2004

Between:

1. Mr. Y. Srinivasa Rao, S/o. Sri Y. Gnanaprakash Rao,

aged 43 years.

2. Mrs. Y. Annapoornamma, W/o. Late Sri Y. Gnanaprakash Rao,

aged 67 years.

Both are residents of Kuchipudi Village, Amrathulur Mandal,

Guntur District, having come down temporarily to Hyderabad.

... PETITIONERS

AND

1. The Deputy Commissioner Endowments, Guntur, Naaz Centre,

Kothapet, Guntur.

2. The Executive Officer, Kuchipudi group of Temples, Kuchipudi Village, Amrathulur
Mandal, Guntur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to grant an order or direction of writ, more so in the nature of writ of certiorari, declaring the orders of

the first respondent as illegal, arbitrary, without jurisdiction and violative of the principles of natural justice, Section 133 of A.P. Charitable Hindu Institutions and Endowments Act, 1987 and Article 14 of the Constitution of India and consequently quash the order dated 27.12.2003 in I.A.No. 32/2003 in O.A. No. 41/2001.

Counsel for the Petitioner: MR.R. Raghunandan

Counsel for Respondent No.1: G.P. for Endowments

Counsel for Respondent No.2: M. Adinarayana Raju

The Court made the following:

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 18146 of 2004

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Order:

Petitioner No.1 is the son of one late Sri. Y. Gnanaprakash Rao, while petitioner No.2 is his wife. The petitioners state that respondent No.2-Executive Officer of Kuchipudi Group of Temples, filed an application in O.A. No. 41 of 2001 under Section 133 of the

A.P. Charitable and Religious Institutions and Endowments Act, 1987

(for short 'the Act') against Sri. Y. Gnanaprakash Rao, for handing over the records of Koganti Ramaswamy Trust, Pulichintalapalem, Kuchipudim (hereinafter referred to as 'the Trust'). While so, the petitioners state that after the death of Sri. Y. Gnanaprakash Rao, respondent No.2 file an application in I.A. No. 32 of 2003 in O.A. No. 41 of 2001, seeking to implead the legal heirs of Sri. Y. Gnanaprakash Rao, which by order dated 27-12-2003, was allowed by respondent No.1-Deputy Commissioner of Endowments. It is this order, which the petitioners seek to challenge in this writ petition.

Heard the learned counsel for the petitioners, the learned Government Pleader for respondent No.1 and the learned Standing Counsel for respondent No.2.

The learned counsel for the petitioners submitted that the impugned order, passed by respondent No.1, impleading the petitioners and others, who are legal heirs of Sri. Y. Gnanaprakash Rao, as parties to the O.A. No. 41 of 2001, suffers from

violation of principles of natural justice, in that no notice whatsoever was issued by respondent No.1 before impleading the petitioners and others as parties to the O.A. He submitted that the petitioners disputed the very existence of the Trust, and this is clear from the stand taken by them in W.P. No. 3529 of 2003 filed by petitioner No.1 and his brother when respondent No.2 sought to high-handedly take away the paddy grown by them in their land. He further submitted that even if there existed a Trust, yet respondent No.2 could not have impleaded the legal heirs of Sri. Y. Gnanaprakash Rao, as the handing over the records of the Trust is the personal liability of the Trustee. At any rate, he submitted that neither the petitioners nor others are in possession of the records of the Trust, and as such, impleading them as parties to the O.A. and calling upon them to hand over the records of the Trust, would be futile and serve no purpose.

The learned Standing Counsel for respondent No.2, submitted that Sri. Y. Gnanaprakash Rao was the Trustee of the Trust, and for handing over the records of the Trust, respondent No.2 filed the O.A., and as he died during the pendency of O.A., his legal heirs were brought on record, and no exception can be taken thereto. He submitted that except the petitioners, no other legal heir of Sri. Y. Gnanaprakash Rao, is before this Court in this writ petition assailing their impleadment in the O.A. He submitted that the impugned order merely impleaded the petitioners as parties to the O.A., and if they are really not in possession of the records of the Trust, they can well raise this plea along with other contentions raised in this writ petition before respondent No.1 in the O.A.

Though the petitioners are contending that the Trust in question is not existence, the same is disputed by respondent No.2. Whether the Trust in question is in existence or not, is a disputed question of fact, which cannot be gone into in a writ petition. Inasmuch as respondent No.2 is contending that the Trust was in existence and Sri. Y. Gnanaprakash Rao, was the Trustee of the Trust, and for handing over the records of the Trust, they filed O.A. against the Trustee, and having regard to the fact that during the pendency of the O.A., Sri. Y. Gnanaprakash Rao, died, respondent No.2 filed application seeking to implead his legal heirs as parties to the O.A., which was allowed, no exception can be taken thereto. The impugned order, merely impleaded the legal heirs of

Sri. Y. Gnanaprakash Rao as parties to the O.A., and it does not seek to pass any adverse order, affecting the interests of the petitioners or other legal heirs, and as

such, the petitioners cannot have any grievance for non-issuance of notice by respondent No.1 before impleading them as parties to the O.A. If, as contended by the petitioners, the Trust in question is not in existence, and they are not in possession of the records of the Trust, they can well take these pleas in the O.A. before respondent No.1, and certainly, by impleading them as parties to the O.A. no harm is caused to them, and on the other hand, it would help respondent No.1 resolve the dispute effectively.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 7th June, 2005.

KSR

Copy to. –

1. The Deputy Commissioner Endowments, Guntur, Naaz Centre,
Kothapet, Guntur.
2. The Executive Officer, Kuchipudi group of Temples, Kuchipudi Village, Amrathalur
Mandal, Guntur District.

Two C.C. s to the G.P. for Endowments, High Court of A.P. buildings, Hyderabad
(OUT)

Two C.D. Copies.